REMARKS/ARGUMENTS

Reexamination of the captioned application is respectfully requested.

As previously, claims 1-4, 8-11 and 15-18 stand rejected under 35 USC 103(a) as being unpatentable by U.S. Patent 6,529,475 to Wan. Claims 5-7, 12-14 and 19-21 stand rejected under 35 USC §103(a) as being unpatentable over U.S. Patent 6,529,475 to Wan in view of U.S. Patent 6,678,250 to Grabelsky. All prior art rejections are respectfully traversed for at least the following reasons.

The office action appears distracted by Applicant's earlier comment that "Wan presents a centralized solution". Applicant previously pointed out and agrees with the office action that Wan teaches a plurality of monitors 110[1].

Moreover, the office action correctly points out that it is the analyzing of packets (not necessarily the monitoring) which Wan performs at the Wan central server 112. Thus, in Wan the monitoring is performed at the gatekeepers 100 and the analysis is performed at the central server (which can either be remote [as in Fig. 1] or at the gatekeepers [col. 7, line 65+]).

By contrast, Applicant's independent claims 1, 8, and 15 all require both monitoring at an IP telephonic gateway and analysis (a determination if the incoming call is to be accepted) by the IP telephonic gateway.

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[1] In Wan, monitors 110 situated in the network (nodes) are snooping the RTCP protocol and sending the information received from the RTCP protocols to a central server 112. The central server 112 utilizes the information to determine the congestion status of the network. If the network is found to be congested, the server 112 sends a signal to the network's gatekeepers 100 to react on the congestion and arrange for reducing the traffic. Wan's central server 112 can be remotely located as shown in Fig. 1, or the gateways can serve as the central server (col. 7, line 65+).

The office action alleges that it would be obvious to one of ordinary skill in the art to collocate the monitors (which Wan has at gatekeepers) with IP gateways to save cost. The office action appears to overlook the fact that it is not only the monitoring act, but also the determination act which Applicant's gateway performs by using the indicator value obtained from the monitoring performed at the gateway.

Moreover, as amended, the independent claims specifically state that the determining act is performed by the gateway. In this regard, as amended independent claim 1 states:

> *the IP telephony gateway determining* if the incoming call is to be accepted or rejected based on said at least one current performance indicator value

Similarly, amended independent claim 8 includes the following:

> wherein *the IP telephony gateway is arranged to determine* if the incoming call is to be accepted or rejected based on said at least one current performance indicator value;

See also independent claim 15:

> instructions which, *when run on a computer comprising an IP telephony gateway*, executes the acts of: …*determining* if the incoming call is to be accepted based on said at least one current performance indicator value provided by a monitoring mechanism at the IP telephony gateway… .

Thus, the limitation is not mere collocation of a function at a gateway, but performance of the determining act by the gateway. Thus, by monitoring the quality of ongoing calls, the IP telephony gateways can determine whether to accept a new incoming call or not. Whereas Wan merely indicates that the gatekeepers "react to reduce congestion", Applicant's gateway accepts or rejects individual incoming calls. For

example, in Applicant's solution the gateway is the originator of media flows corresponding to the calls, and further serves both to monitor and to makes analysis of the status of the network when an incoming call is received[2].

As previously explained, a gatekeeper and a gateway are different animals. In a layered network, media transport (handled by the gateway) and control signaling (handled by the gatekeeper) are in separate layers. That is, a gatekeeper is an entity which is essentially responsible to process the call signalling, while the gateway is the entity for essentially handling the media flow. A gatekeeper can be regarded as a telephony server, and the gateway can be regarded as a media gateway.

In a large scale telephone network, separation of gateway and gatekeeper are necessary to scale to the traffic demand, and for providing flexibility to allow independent transport and control signaling layers. Therefore, *the person skilled in the art would not be motivated to make the double consolidation of combining Wan's central server with Wan's gatekeeper, and then configuring Wan's gateway to perform to perform the separately layered functions of Wan gatekeeper*. The alleged motivation to combine (cost savings) is illusory and unavailing in view of technical realities of the network.

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[2] In Wan, most of the RTP media flows originate from end-user equipment, and the corresponding RTCP flows go between the end-user equipment so that the information contained in the RTCP packets can only be made available if the Wan monitoring device 110 snoops into the traffic flow and extracts pertinent information. Thus, in Wan the information used as input to the admission control system is generated outside the gateways, and Wan only listens passively. Applicant, on the other hand, generates the RTP media flows at the gateway, thereby providing a more efficient and flexible system.

In view of the foregoing and other considerations, all claims are deemed in condition for allowance. A formal indication of allowability is earnestly solicited.

The Commissioner is authorized to charge the undersigned's deposit account #14-1140 in whatever amount is necessary for entry of these papers and the continued pendency of the captioned application.

Should the Examiner feel that an interview with the undersigned would facilitate allowance of this application, the Examiner is encouraged to contact the undersigned.

Respectfully submitted,

NIXON & VANDERHYE P.C.

By: /H. Warren Burnam, Jr./
H. Warren Burnam, Jr.
Reg. No. 29,366

HWB:lsh
901 North Glebe Road, 11th Floor
Arlington, VA 22203-1808
Telephone: (703) 816-4000
Facsimile: (703) 816-4100